

**RENEWAL AND AMENDMENT NO. 2  
TO THE SERVICES AGREEMENT  
BETWEEN NATIVIDAD MEDICAL CENTER (COUNTY OF MONTEREY) AND  
COREPOINT HEALTH LLC**

**THIS RENEWAL AND AMENDMENT NO. 2** to the County of Monterey Agreement for Services (hereinafter, "RENEWAL") is made and entered into, by and between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center, an acute care hospital (hereinafter, "County"), and Corepoint Health LLC (hereinafter, "CONTRACTOR") (collectively, the County and CONTRACTOR are referred to as the "Parties.").

**WHEREAS**, the Parties had previously entered into an Agreement for Services (hereinafter, "Agreement"), on July 1, 2010; and

**WHEREAS**, the Agreement was Amended on March 5, 2012 via Amendment No. 1; and

**WHEREAS**, the Agreement and Amendment No. 1 is attached hereto as Attachment 1; and

**WHEREAS**, that Agreement expired on March 3, 2013; and

**WHEREAS**, the Parties wish to renew the Agreement on the same or similar terms, beginning March 4, 2013 and increase the amount payable by \$154,543 to add additional services and to continue to provide previous services associated with Software License & Support Services within the County of Monterey.

**NOW THEREFORE**, the Parties agree as follows:

The Agreement is hereby renewed and amended on the terms and conditions as set forth in Attachment 1 incorporated herein by this reference, except as specifically set forth below.

1. The term of this RENEWAL and Amendment No. 2 is from March 4, 2013 to March 3, 2016 unless sooner terminated pursuant to the terms of this RENEWAL, or extended in writing.
2. Exhibit A to the Agreement is replaced with "Renewal and Amendment-2 to Exhibit A" attached to this Renewal and Amendment No. 2. All references in the Agreement to Exhibit A shall be construed to refer to Renewal and Amendment No.2 to Exhibit A.
3. Section 1, "PAYMENTS BY NMC" shall be amended by removing, "*The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$45,000.*" and replacing it with "*The total amount payable by County to CONTRACTOR under Agreement No. (MYA592) shall not exceed the total sum of 229,666 for the full term of the Agreement*".
4. Section 2, "TERM OF AGREEMENT" shall be amended by removing, "*The term of this Agreement is from July 1, 2010 to March 4, 2012 unless sooner terminated pursuant to this Agreement*" and replacing it with

*“The term of this Agreement is July 1, 2010 to March 3, 2016 unless sooner terminated pursuant to this Agreement”*


5. County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Attachment 1, subject to the limitations set forth in this RENEWAL and Amendment No. 2. The total amount payable by County to CONTRACTOR shall not exceed the sum of \$229,666.
6. If there is any conflict or inconsistency between the provisions of Agreement, or this RENEWAL and Amendment No. 2, the provisions of this RENEWAL and Amendment No. 2 shall govern.

IN WITNESS WHEREOF, the parties hereby execute this RENEWAL as follows:

**NATIVIDAD MEDICAL CENTER**

By: \_\_\_\_\_  
Sid Cato, NMC, Management Analyst/Contracts

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

By:  \_\_\_\_\_  
Harry Weis, NMC, Chief Executive Officer

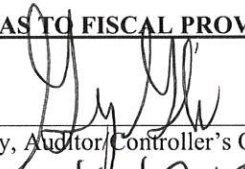
Date: 9/3/13

**APPROVED AS TO LEGAL PROVISIONS**

By:  \_\_\_\_\_  
Anne Brereton, Deputy County Counsel

Date: Oct. 16, 2013


**APPROVED AS TO FISCAL PROVISIONS**

By:  \_\_\_\_\_  
Gary Giboney, Auditor/Controller's Office

Date: 10-1-13

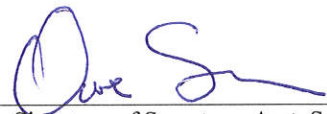
**CONTRACTOR**

Corepoint Health, LLC  
Contractor's Business Name\*\*\*

 \_\_\_\_\_  
Signature of Chair, President, or Vice-President

Phil Guy, CEO  
Name and Title

Date: 9/23/2013

By:  \_\_\_\_\_  
Signature of Secretary, Asst. Secretary,  
CFO, Treasurer or Asst. Treasurer

DAVE SHAUCK, SECRETARY  
Name and Title

Date: 9/23/2013

\*\*\*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 and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.



Renewal and  
AMENDMENT - 2 TO EXHIBIT A

April 16, 2013

Jim Fenstermaker  
Director of IT  
Natividad Medical Center  
1441 Constitution Blvd.  
Salinas, CA 93906

Dear Jim:

Thank you for taking the time to speak with me in regards to Corepoint Community Exchange and Outreach Manager. This proposal outlines the initial product costs, system requirement, and costs associated with this layered product at the time of purchase and for subsequent years.

Corepoint Community Exchange is a web serviced-based solution that helps overcome the connectivity challenges to multiple care locations. The results of using Corepoint Community Exchange are securely exchanging patient information with no VPNs, expanding your referring care community in a cost-effective manner, and managing your network of care efficiently.

Corepoint Community Exchange is the ideal solution for healthcare providers pursuing a connected care network or healthcare ASPs or SaaS providers requiring a seamless, manageable data exchange for their customer network. It is a product layered on top of Corepoint Integration Engine.

The results of using Corepoint Community Exchange include:

- A manageable approach to expanding and scaling your point of care community, meeting the increased demands of connected care with secure, agile web services (no VPNs required)
- Lowered costs of implementation and support of the connected care community is achieved through centralized monitoring capabilities and remote agent deployments.
- Referring physician and other remote point of care relationships are strengthened with quick turnaround times on patient data flow.

Just a few of the benefits of Corepoint Outreach Manager include the ability to:

- Receive orders without a local medical record number
- Place orders in a holding queue until the patient arrives
- Edit the order before it is released
- Develop custom reports for house cleaning or other analysis
- Support ACO and Meaningful Use initiatives
- Strengthen relationships with the referring physician community

**The prices and other information in this proposal are confidential and should not be shared with anyone outside Natividad Medical Center. The pricing will remain firm for a period of 30 days following this letter date.**

We greatly appreciate your continued support in our products and services. Corepoint Health is committed to earning your confidence in all aspects of our relationship and will always welcome your comments and suggestions on how we may better meet your requirements. Please feel free to call or email me if you have any questions.

Sincerely,

Mike Egan  
214.618.7015  
[mike.egan@corepointhealth.com](mailto:mike.egan@corepointhealth.com)

**Natividad Medical Center  
Cost Proposal**

**Corepoint Community Exchange and Outreach Manager Cost**

Product	One-Time Fee	Annual Fee	Initial Total		
			Qty	One-Time Fees	Annual Fees <sup>1</sup>
Upgrade to Corepoint Community Exchange <sup>2</sup>	\$ 15,000	\$ 3,000	1	15,000	3,000
CareAgent or named users <sup>3</sup>	1,000	200	5	5,000	1,000
Corepoint Outreach Manager Level 1	30,000	6,000	1	30,000	6,000
Professional Services for Corepoint Outreach Manager <sup>4</sup>	15,000		1	15,000	
<b>Subtotal</b>				<b>65,000</b>	<b>10,000</b>
<b>Initial Total</b>				<b>\$75,000</b>	

1. If purchased in mid-support period, the annual support will be prorated to sync with the customer's renewal period.
2. Corepoint Community Exchange is layered on top of the Corepoint Integration Engine product and includes the HTTP Gear.
3. CareAgents are to be used in conjunction with the Corepoint Community Exchange product.
4. The professional services for Corepoint Outreach Manager include installation and setup costs typically incurred. This includes assistance with basic functionalities, such as:
  - Reroute inbound orders to Outreach Manager
  - Extract released orders from Outreach Manager and forward to appropriate applications
  - When results are received, update Outreach Manager status
  - Make any appropriate mappings for MRN's, procedure codes, etc.

Corepoint Health, LLC  
 3010 Gaylord Parkway  
 Suite 320  
 Frisco, TX 75034  
 USA



**Quote**  
**1404**

Phone: (214) 618-7000  
 Fax: (214) 618-7001

Quote Date:  
 Aug 21, 2013  
 Page: 1

REMIT PAYMENT TO: 3010 Gaylord Pkwy, Suite 320, Frisco, TX 75034

**Quote To:**

Natividad Medical Center  
 PO Box 81611  
 Salinas, CA 93912-1611  
 USA

**Ship To:**

Jim Fenstermaker

Customer ID	Good Thru	Payment Terms	Sales Rep	
540.3.12	9/20/13	Net 30 Days	Michael Egan	
Qty	Item	Description	Unit Price	Extension
3.00	LF-NIEE 0_5 A2	5 addtl cxns for Corepoint Integration Engine w A2 *****	6,000.00	18,000.00
3.00	CS-NIEE 0_5 A2	Ann Spt 5 addtl cxns for Corepoint Integration Engine w A2 - BASE \$1200 Support Effective Period 08/21/13 - 03/04/16 (prorated to sync up renewal periods) Site: Main Total Connections = 45 *****	3,047.67	9,143.01
	Quote Note	If quote is accepted, the support fee will change to allow for proration from date of acceptance. Please contact us before securing Purchase Order.		

**Note: All Corepoint Health software products are delivered electronically over the Internet. Your technical staff already has complete copies of the software that is referenced on this invoice. Corepoint Health will not ship physical copies of the software invoiced above.**

When we receive full payment for this invoice, we will send software license keys via e-mail to your technical staff. If you have questions, please send an e-mail to [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com).

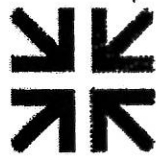
Subtotal 27,143.01  
 Sales Tax  
**Total 27,143.01**

*Yof Y*

**Corepoint Health, LLC EIN 20-3309104**  
 Please email [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com) to obtain a completed W-9 Form.

Corepoint Health, LLC  
 3010 Gaylord Parkway  
 Suite 320  
 Frisco, TX 75034  
 USA

Phone (214) 618-7000  
 Fax (214) 618-7001



*AMENDMENT #1*  
**Corepoint**  
 HEALTH

**Quote**  
**0925**

Quote Date:  
 Feb 10, 2012  
 Page: 1

**REMIT PAYMENT TO: 3010 Gaylord Pkwy, Suite 320, Frisco, TX 75034**

**Quote To:**

Natividad Medical Center  
 PO Box 81611  
 Salinas, CA 93912-1611  
 USA

**Ship To:**

Richard Medalen

Customer ID	Good Thru	Payment Terms	Sales Rep	
Natividad Medical	3/11/12		Michael Egan	

Qty	Item	Description	Unit Price	Extension
1.00	LF-NIEE A2	Assured Availability (A2) for Corepoint Integration Engine License	6,000.00	6,000.00
5.00	LF-NIEE 0_5 A2	5 addtl cxns for Corepoint Integration Engine w A2 NOTE: Unit Price for LF-NIEE 0_5 A2 is calculated as follows: Base Price of \$6,000 for LF-NIEE 0_5 A2 less Base Price of \$5,000 for LF-NIEE 0_5 yields an increase in Base Price of \$1,000 to add A2 to existing connections Total Existing Connections = 30	1,000.00	5,000.00
1.00	LF-NB Ent 5 User	Ann Enterprise License for HL7 Analyzer 5 users/mach's - BASE \$1500 License Effective Period 12/05/11 - 03/04/12 (prorated to sync up with annual renewal period)	373.97	373.97
1.00	LF-NB Ent 5 User	Ann Enterprise License for HL7 Analyzer 5 users/mach's LICENSE RENEWAL FOR 2012:	1,500.00	1,500.00
1.00	LF-NIDE 3 Users	Ann Corepoint Integration Engine Developer License 3 users/mach's License Renewal Effective Period 03/05/12 - 03/04/13	1,500.00	1,500.00

**Note: All Corepoint Health software products are delivered electronically over the Internet. Your technical staff already has complete copies of the software that is referenced on this invoice. Corepoint Health will not ship physical copies of the software invoiced above.**

When we receive full payment for this invoice, we will send software license keys via e-mail to your technical staff. If you have questions, please send an e-mail to [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com).

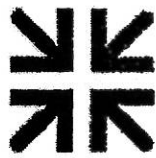
Subtotal 14,373.97  
 Sales Tax  
**Total 14,373.97**

*2 of 13*

**Corepoint Health, LLC EIN 20-3309104**  
**Please email [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com) to obtain a completed W-9 Form.**



Corepoint Health, LLC  
 3010 Gaylord Parkway  
 Suite 320  
 Frisco, TX 75034  
 USA



*AMENDMENT # 7*  
**Corepoint**  
 HEALTH

**Quote**

**0926**

Quote Date:

Feb 10, 2012

Page: 1

Phone (214) 618-7000  
 Fax (214) 618-7001

**REMIT PAYMENT TO: 3010 Gaylord Pkwy, Suite 320, Frisco, TX 75034**

**Quote To:**

Natividad Medical Center  
 PO Box 81611  
 Salinas, CA 93912-1611  
 USA

**Ship To:**

Richard Medalen

Customer ID	Good Thru	Payment Terms	Sales Rep	
Natividad Medical	3/11/12		Michael Egan	
Qty	Item	Description	Unit Price	Extension
1.00	CS-NIEE A2	***** Ann Spt Assured Availability (A2) for Corepoint Integration Engine - BASE \$1200	299.18	299.18
5.00	CS-NIEE 0_5 A2	Ann Spt 5 addtl cxns for Corepoint Integration Engine w A2 - BASE \$200 *Cost to add A2 support to existing 30 connections Base Price of \$1,200 for A2 Connections less Base Price of \$1000 for previously purchased connections yields a Unit Price of \$200 Support Effective Period 12/05/11 - 03/04/12 *****	49.86	249.30
1.00	CS-NIEE 1_5	RENEWAL QUOTE FOR 2012 SUPPORT WITH A2: Ann Spt Corepoint Integration Engine w 5 cxns	5,000.00	5,000.00
1.00	CS-NIEE RFMDB	Ann Spt RFMDB Gear for Corepoint Integration Engine	1,000.00	1,000.00
1.00	CS-NIEE A2	Ann Spt Assured Availability (A2) for Corepoint Integration Engine	1,200.00	1,200.00
5.00	CS-NIEE 0_5 A2	Ann Spt 5 addtl cxns for Corepoint Integration Engine w A2 Support Effective Period 03/05/12 - 03/04/13 Site: Main Total Connections = 30 *****	1,200.00	6,000.00
1.00	PS-NI	Corepoint Integration Engine Consulting/Implementation Services A2 Installation	2,000.00	2,000.00

**Note: All Corepoint Health software products are delivered electronically over the Internet. Your technical staff already has complete copies of the software that is referenced on this invoice. Corepoint Health will not ship physical copies of the software invoiced above.**

When we receive full payment for this invoice, we will send software license keys via e-mail to your technical staff. If you have questions, please send an e-mail to [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com).

Subtotal 15,748.48

Sales Tax

**Total 15,748.48**

*3 of 13*

**Corepoint Health, LLC EIN 20-3309104**  
**Please email [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com) to obtain a completed W-9 Form.**

EXHIBIT A (con't)

Description of Services

Corepoint Health agrees to provide Customer with the Services set forth in this Exhibit.

1. **Description of Services.** Corepoint Health provides the following Services with respect to the Software:

- a. Technical Assistance.
- (i) Customer will provide Corepoint Health with the names of Customer's designated support representatives (each, a "Designated Support Contact"), each of whom will be knowledgeable regarding HL7 and the applicable Software. Corepoint Health will provide Customer with the information needed by such Designated Support Contacts to access Corepoint Health's customer support web site and to submit support requests on-line. Customer will notify Corepoint Health promptly with any changes to such Designated Support Contacts.
  - (ii) Currently, the Corepoint Health customer support center is available to assist the Designated Support Contact during the hours between 9:00 a.m. and 5:00 p.m. Central Time on regular business days, excluding Corepoint Health holidays. Corepoint Health may, with thirty (30) days notice, change the hours during which customer support center is available but will not shorten the hours of support per day.
  - (iii) Corepoint Health will provide Customer with those Updates to the Software which Corepoint Health makes generally available to customers. Corepoint Health's preferred method of delivery for Updates is via a download from Corepoint Health's web site. However, Corepoint Health may select other methods for delivering Updates such as, but not limited to, via CD-ROM or magnetic media.
  - (iv) Customer will maintain at its expense both an Internet e-mail address, and a method and means to download Updates from Corepoint Health's web site. Corepoint Health will use Customer's e-mail address for notification of Updates and for correspondence regarding requests for support.
- b. Software Problem Reporting. Customer agrees to test and verify, on an isolated development environment, any suspected Errors in the Software or Documentation and, through its Designated Support Contact(s), to submit reports concerning suspected Errors to [support@corepointhealth.com](mailto:support@corepointhealth.com). To more effectively diagnose problems, Customer's Designated Support Contact(s) agrees to confirm with the system administrator that all supporting systems (e.g., server hardware, etc.) are functioning properly before contacting Corepoint Health Customer Support, and to have the following information available prior to calling Corepoint Health: Corepoint Health Software product and version, available disk space, installed memory and hard disk space, client operating system, and server operating system (including service pack). In addition, Customer will provide a clear description of the problem or question, and any Error codes or messages. Customer's Designated Support Contact will provide Corepoint Health with data that Corepoint Health reasonably requests in order to reproduce operating conditions similar to those present when the potential Error was discovered. If Corepoint Health requests written verification of an Error or other malfunction discovered by Customer, Customer will promptly provide such verification, by email, telecopy, or overnight mail, setting forth in reasonable detail the respects in which the Software fails to perform. In addition, Customer will provide in a timely manner and with sufficient detail all example data, scripts, source code, or usage patterns that cause the Error to occur. Upon request, Customer will provide Corepoint Health with remote access to Customer's computer system for the purpose of remote diagnostics. Corepoint Health Customer Support may redefine Corepoint Health's Software problem reporting procedures as needed in which event Corepoint Health will post such updated procedures on its customer support web site.
- c. Bug Fixes. Corepoint Health will investigate each suspected Error reported by a Designated Support Contact to determine whether, in Corepoint Health's judgment, the suspected Error is, in fact, an Error. Corepoint Health agrees, if feasible, to commence investigation of a suspected Error on the business day on which such Error is detected. If Corepoint Health confirms that there is an Error in the Software or in the Documentation, Corepoint Health will use reasonable efforts to provide an avoidance procedure, a workaround, or an Error correction. Corepoint Health will have discretion as to the method and manner of maintenance and support efforts, including the use of non-Corepoint Health personnel.
- d. Software Updates. As permanent solutions are developed for known Errors in the Software, they will be incorporated from time to time in planned Updates. Corepoint Health will provide such Updates to the

Designated Support Contact as they are released. In the event Corepoint Health modifies the Documentation for the Software, Corepoint Health will also provide one copy of such Documentation to the Designated Support Contact at no additional charge as it becomes available.

2. **Conditions and Limitations of Services.** Corepoint Health's obligations to render Services are subject to the following conditions and limitations:
  - a. **Problems Caused by Third Party Products, Errors in Use of Software, or Modifications to the Software.** Corepoint Health has no obligation to provide Services with respect to problems in the use or functioning of the Software caused by any (i) hardware or software product (including but not limited to operating systems, networks, and third party software) not provided to Customer by Corepoint Health, (ii) error in the use of the Software inconsistent with the Documentation, or (iii) modification of the Software by any person or entity other than one authorized by Corepoint Health (including, without limitation, any modifications to Software which by their nature and functionality are modifiable by Customer). Customer may request that Corepoint Health provide Customer with services for any problem caused by any of the foregoing. If Corepoint Health agrees to do so, Corepoint Health will advise Customer regarding the rates applicable to such services which may include travel and per diem expenses should Customer request that Corepoint Health provide such services from a location other than Corepoint Health's principle place of business. If Customer does not agree to pay for same, Corepoint Health will not provide such services.
  - b. **Maintenance of Current Releases of the Software.** Customer should promptly install Updates to maintain the Software in the most current revision level. Corepoint Health provides Services only for (i) the most current major released version of the Software; and (ii) for a period of 12 months subsequent to the release date of the most current major version, the immediately preceding major release. Corepoint Health will have no obligation to support Customer where Customer is using a version of the Software that is not a then-supported release. Corepoint Health recommends that an isolated development environment be replicated outside of the production environment in order to test all new or changed processes and software upgrades prior to making modifications to the live production environment.
  - c. **Access to Customer's Facilities.** Customer may need to supply Corepoint Health with access to and use of all information and facilities reasonably necessary for Corepoint Health to render these services, subject to any security requirements or other company procedures of Customer. Resolving some product issues may require Corepoint Health to dial in to Customer's Corepoint Health's server or to otherwise remotely access the Software. If Corepoint Health is not permitted or is unable to do so, Customer may experience slower resolution times or higher costs, and Corepoint Health's ability to resolve a problem may be inhibited.
  - d. **Backup Procedures.** Customer is responsible for maintaining procedures external to the Software for reconstruction of lost or altered files, data, or programs to the extent it deems necessary, and for actually reconstructing any lost or altered files, data, or programs.
3. **License Grant to NeoIntegrate Engine Mode Software Product, Developer Edition – Nonproduction License.** Corepoint Health grants Customer the right to install one copy of the NeoIntegrate Engine Mode Software Product, Developer Edition for use within Customer's organization by up to the number of licenses for which Customer has paid license fees solely to design, develop, test, market, and support the use of the NeoIntegrate Engine Mode Runtime Software with the applications and interfaces with which such NeoIntegrate Engine Mode Runtime Software will be used to process data. The duration of the license grant is for a period of twelve months. Neither production use nor "Hot Standby" processing capabilities are allowed.

CorePoint Renewal & Amendment #2 Cost Sheet      QTY      One-time Cost      Maintenance - 3/2013-3/2014      Maintenance - 3/2014-3/2015      Maintenance - 3/2015-3/2016

Current Configuration      Original Agreement & Amendment #1      Current Config      1      PAID      PAID      16,200      16,200

Additional Licensing Renewal & Amendment #2	QTY	One-time Cost	Maintenance - 3/2013-3/2014	Maintenance - 3/2014-3/2015	Maintenance - 3/2015-3/2016
Outreach Manager	1	30,000	6,000	6,000	6,000
Professional Services - Outreach Manager	1	15,000	0	0	0
Community Exchange	1	15,000	3,000	3,000	3,000
Care Agent	5	5,000	1,000	1,000	1,000
Additional Connections	3	18,000	1,943	3600	3,600

Totals      \$83,000      \$11,943      \$29,800      \$154,543


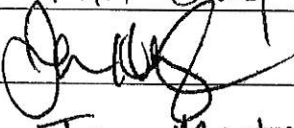
AMENDMENT NO. 1  
FOR PROFESSIONAL SERVICE AGREEMENT  
BETWEEN CorePoint Health LLC AND  
THE NATIVIDAD MEDICAL CENTER  
FOR  
Software License and Software Support Services

The parties to Professional Service Agreement, dated July 1, 2010 between the County of Monterey, on behalf of Natividad Medical Center ("NMC"), and CorePoint Health LLC (Contractor), hereby agree to amend their Agreement No. (SC1982) on the following terms and conditions:

1. Contractor will provide NMC the scope of service as stated on Attachment A attached to this Amendment #1.
2. This Amendment shall become effective on March 5, 2012 and shall continue in full force until March 3, 2013.
3. The total amount payable by County to Contractor under Agreement No. (SC1982) shall not exceed the total sum of \$75,123 for the full term of the Agreement.
4. All other terms and conditions of the Agreement shall continue in full force and effect.
5. A copy of this Amendment shall be attached to the original Agreement No. (SC1982).

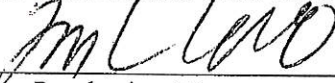
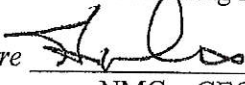
IN WITNESS WHEREOF, the parties hereto are in agreement with this Amendment and Professional Service Agreement on the basis set forth in this document and have executed this amendment on the day and year set forth herein.

CONTRACTOR


Signature 1  Dated 1/31/2012  
 Printed Name Phil Guy Title CEO  
 Signature 2  Dated 2-10-2012  
 Printed Name Jon Martz Title VP

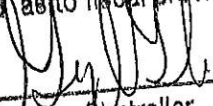
\*\*\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set 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 and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.

NATIVIDAD MEDICAL CENTER

Signature  Dated 3-2-12  
 Purchasing Manager  
 Signature  Dated 2/23/12  
 NMC - CEO

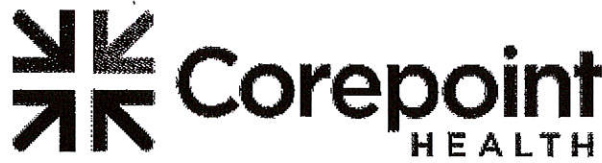
Approved as to Legal Form:  
Charles J. McKee, County Counsel

By   
Stacy Saetta, Deputy  
Attorneys for County and NMC

Reviewed as to fiscal provisions  
  
Auditor-Controller 3-1-12  
County of Monterey

Dated: 2/29, 2012

Corepoint Health, LLC  
 3010 Gaylord Parkway  
 Suite 320  
 Frisco, TX 75034  
 USA



**Quote**  
**0925**

Phone (214) 618-7000  
 Fax (214) 618-7001

Quote Date:  
 Feb 10, 2012  
 Page: 1

**REMIT PAYMENT TO: 3010 Gaylord Pkwy, Suite 320, Frisco, TX 75034**

**Quote To:**

Natividad Medical Center  
 PO Box 81611  
 Salinas, CA 93912-1611  
 USA

**Ship To:**

Richard Medalen

Customer ID	Good Thru	Payment Terms	Sales Rep	
Natividad Medical	3/11/12		Michael Egan	

Qty	Item	Description	Unit Price	Extension
		<del>ATTACHMENT A</del> ***** 1.00 LF-NIEE A2 Assured Availability (A2) for Corepoint Integration Engine License 6,000.00 6,000.00 5.00 LF-NIEE 0_5 A2 5 addtl cxns for Corepoint Integration Engine w A2 1,000.00 5,000.00 NOTE: Unit Price for LF-NIEE 0_5 A2 is calculated as follows: Base Price of \$6,000 for LF-NIEE 0_5 A2 less Base Price of \$5,000 for LF-NIEE 0_5 yields an increase in Base Price of \$1,000 to add A2 to existing connections Total Existing Connections = 30 ***** 1.00 LF-NB Ent 5 User Ann Enterprise License for HL7 Analyzer 5 users/mach's - BASE \$1500 373.97 373.97 License Effective Period 12/05/11 - 03/04/12 (prorated to sync up with annual renewal period) ***** LICENSE RENEWAL FOR 2012: 1.00 LF-NB Ent 5 User Ann Enterprise License for HL7 Analyzer 5 users/mach's 1,500.00 1,500.00 1.00 LF-NIDE 3 Users Ann Corepoint Integration Engine Developer License 3 users/mach's 1,500.00 1,500.00 License Renewal Effective Period 03/05/12 - 03/04/13 *****		

**Note: All Corepoint Health software products are delivered electronically over the Internet. Your technical staff already has complete copies of the software that is referenced on this invoice. Corepoint Health will not ship physical copies of the software invoiced above.**

When we receive full payment for this invoice, we will send software license keys via e-mail to your technical staff. If you have questions, please send an e-mail to [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com).

Subtotal 14,373.97  
 Sales Tax  
**Total 14,373.97**

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**Corepoint Health, LLC EIN 20-3309104**  
**Please email [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com) to obtain a completed W-9 Form.**

Corepoint Health, LLC  
 3010 Gaylord Parkway  
 Suite 320  
 Frisco, TX 75034  
 USA



**Quote**  
**0926**

Phone (214) 618-7000  
 Fax (214) 618-7001

Quote Date:  
 Feb 10, 2012  
 Page: 1

**REMIT PAYMENT TO: 3010 Gaylord Pkwy, Suite 320, Frisco, TX 75034**

**Quote To:**

Natividad Medical Center  
 PO Box 81611  
 Salinas, CA 93912-1611  
 USA

**Ship To:**

Richard Medalen

Customer ID	Good Thru	Payment Terms	Sales Rep
Natividad Medical	3/11/12		Michael Egan

Qty	Item	Description	Unit Price	Extension
<b>ATTACHMENT A (CONTINUED)</b>				
1.00	CS-NIEE A2	Ann Spt Assured Availability (A2) for Corepoint Integration Engine - BASE \$1200	299.18	299.18
5.00	CS-NIEE 0_5 A2	Ann Spt 5 addtl cxns for Corepoint Integration Engine w A2 - BASE \$200 *Cost to add A2 support to existing 30 connections Base Price of \$1,200 for A2 Connections less Base Price of \$1000 for previously purchased connections yields a Unit Price of \$200 Support Effective Period 12/05/11 - 03/04/12	49.86	249.30
***** RENEWAL QUOTE FOR 2012 SUPPORT WITH A2:				
1.00	CS-NIEE 1_5	Ann Spt Corepoint Integration Engine w 5 cxns	5,000.00	5,000.00
1.00	CS-NIEE RFMDB	Ann Spt RFMDB Gear for Corepoint Integration Engine	1,000.00	1,000.00
1.00	CS-NIEE A2	Ann Spt Assured Availability (A2) for Corepoint Integration Engine	1,200.00	1,200.00
5.00	CS-NIEE 0_5 A2	Ann Spt 5 addtl cxns for Corepoint Integration Engine w A2 Support Effective Period 03/05/12 - 03/04/13 Site: Main Total Connections = 30	1,200.00	6,000.00
*****				
1.00	PS-NI	Corepoint Integration Engine Consulting/Implementation Services A2 Installation	2,000.00	2,000.00

**Note: All Corepoint Health software products are delivered electronically over the Internet. Your technical staff already has complete copies of the software that is referenced on this invoice. Corepoint Health will not ship physical copies of the software invoiced above.**

When we receive full payment for this invoice, we will send software license keys via e-mail to your technical staff. If you have questions, please send an e-mail to [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com).

Subtotal 15,748.48  
 Sales Tax  
**Total 15,748.48**

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**Corepoint Health, LLC EIN 20-3309104**  
**Please email [accounting@corepointhealth.com](mailto:accounting@corepointhealth.com) to obtain a completed W-9 Form.**



COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES  
(NOT TO EXCEED \$100,000)

This Professional Services Agreement (hereinafter "Agreement") is made by and between Natividad Medical Center ("NMC"), a general acute care teaching hospital wholly owned and operated by the County of Monterey, which is a political subdivision of the State of California and CorePoint Health LLC hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

SERVICES TO BE PROVIDED. NMC hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A in conformity with the terms of the Agreement. The services are generally described as follows: **Annual Corepoint Intergration Engine Developer's License- license for non-production use only (3 users); support for CIE w/5 connections; support for five 5-packs of add'l connections; support for RFMDB Gear for CIE**

1. PAYMENTS BY NMC. NMC shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by NMC to CONTRACTOR under this Agreement shall not exceed the sum of \$45,000

2. TERM OF AGREEMENT. The term of this Agreement is from Jul 1, 2010 to Mar 4, 2012 unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and NMC and with NMC signing last and CONTRACTOR may not commence work before NMC signs this Agreement.

3. ADDITIONAL PROVISIONS/EXHIBITS. The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A/Schedule A: Scope of Services/Payment Provisions

4. PERFORMANCE STANDARDS.

4.1. CONTRACTOR warrants that CONTRACTOR and Contractor's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of NMC, or immediate family of an employee of NMC.

4.2. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.



4.3. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use NMC premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

5. PAYMENT CONDITIONS.

5.1. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to NMC. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for Administrator or his or her designee shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

5.2. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

6. TERMINATION.

6.1. During the term of this Agreement, NMC may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

6.2. NMC may cancel and terminate this Agreement for good cause effective immediately upon written notice to Contractor. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If NMC terminates this Agreement for good cause, NMC may be relieved of the payment of any consideration to Contractor, and NMC may proceed with the work in any manner, which NMC deems proper. The cost to NMC shall be deducted from any sum due the CONTRACTOR under this Agreement.

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

8. INSURANCE.

8.1. Evidence of Coverage:

Prior to commencement of this Agreement, the CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements

executed by the insurance carrier shall accompany the certificate. In addition, the CONTRACTOR upon request shall provide a certified copy of the policy or policies.

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

8.2. Qualifying Insurers: All coverage's except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by NMC's Contracts/Purchasing Director.

8.3. Insurance Coverage Requirements: Without limiting Contractor's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

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

Exemption/Modification (Justification attached; subject to approval).

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

Exemption/Modification (Justification attached; subject to approval).

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

Exemption/Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Exemption/Modification (Justification attached; subject to approval).

#### 8.4. Other Insurance Requirements:

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

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

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

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

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

#### 9. RECORDS AND CONFIDENTIALITY.

9.1. Confidentiality, CONTRACTOR and its officers, employees, agents and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from NMC or prepared in connection with the performance of this Agreement, unless NMC specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to NMC any and all requests for disclosure of any such

confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out Contractor's obligations under this Agreement.

- 9.2. NMC Records . When this Agreement expires or terminates, CONTRACTOR shall return to NMC any NMC records which CONTRACTOR used or received from NMC to perform services under this Agreement.
  - 9.3. Maintenance of Records . CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.
  - 9.4. Access to and Audit of Records . NMC shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of NMC or as part of any audit of NMC, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
  - 9.5. Royalties and Inventions . NMC shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize other to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of NMC.
10. **NON-DISCRIMINATION**. During the performance of this Agreement, Contractor, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in Contractor's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, full comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.
11. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT**. If this Agreement has been or will be funded with monies received by NMC pursuant to a contract with the state or federal government in which NMC is the grantee, CONTRACTOR will comply with all the provisions of said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, NMC will deliver a copy of said contract to Contractor, at no cost to Contractor.
12. **INDEPENDENT CONTRACTOR**. In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent CONTRACTOR and not as an employee of NMC. No offer or obligation of permanent employment with NMC or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled

by virtue of this Agreement to receive from NMC any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for an obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold NMC and the County of Monterey harmless from any and all liability, which NMC may incur because of Contractor's failure to pay such taxes.

13. NOTICES. Notices required under this Agreement shall be delivered personally or by first-class, postage per-paid mail to NMC and Contractor's contract administrators at the addresses listed below.

FOR NATIVIDAD MEDICAL CENTER: Contracts/Purchasing Manager	FOR CONTRACTOR:
Name	Phil Guy, CEO Name and Title
1441 Constitution Blvd. Salinas, CA. 93906 Address	3010 Gaylord Pkwy, Ste 320, Frisco, Tx 75034 Address
831.755.4111 Phone	(214) 618-7000 Phone

14. MISCELLANEOUS PROVISIONS.

- 14.1. Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.
- 14.2. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by NMC and the Contractor.
- 14.3. Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by NMC and the Contractor. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 14.4. Contractor. The term "Contractor" as used in this Agreement includes Contractor's officers, agents, and employees acting on Contractor's behalf in the performance of this Agreement.
- 14.5. Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 14.6. Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of NMC. None of the services covered by this Agreement shall be subcontracted without the prior written approval of

NMC. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 14.7. Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of NMC and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 14.8. Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 14.9. Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 14.10. Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 14.11. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 14.12. Non-exclusive Agreement. This Agreement is non-exclusive and both NMC and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 14.13. Construction of Agreement. NMC and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 14.14. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 14.15. Integration. This Agreement, including the exhibits, represents the entire Agreement between NMC and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, Representations, or agreements, either written or oral, between NMC and CONTRACTOR as of the effective date of this Agreement, which is the date that NMC signs the Agreement.
- 14.16. Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

NATIVIDAD MEDICAL CENTER

CONTRACTOR

By: [Signature]  
NMC Contracts/Purchasing Agent

Date: 8/9/10

By: Andrea Rosenbom  
Department Head (if applicable) <sup>for Harry Wells</sup>

Date: 8/11/10

Approved as to Legal Form

By: [Signature]  
Stacy Sactta  
Deputy County Counsel

Date: 8/5/10

Approved as to Fiscal Provisions

By: [Signature]  
Auditor/Controller

Date: 8/5-10

Corepoint Health, LLC  
Contractor's Business Name\*\*\*

[Signature]

Signature of Chair, President, or Vice-President

Phil Guy, CEO  
Name and Title

Date: 7/8/2010

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

Dave Shaver, Secretary  
Name and Title

Date: 7/8/2010

\*\*\*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 and individual capacity, the individual shall set forth the name of the business, if any and shall personally sign the Agreement.

## EXHIBIT A (con't)

### Description of Services

Corepoint Health agrees to provide Customer with the Services set forth in this Exhibit.

1. **Description of Services.** Corepoint Health provides the following Services with respect to the Software:
  - a. Technical Assistance.
    - (i) Customer will provide Corepoint Health with the names of Customer's designated support representatives (each, a "Designated Support Contact"), each of whom will be knowledgeable regarding HL7 and the applicable Software. Corepoint Health will provide Customer with the information needed by such Designated Support Contacts to access Corepoint Health's customer support web site and to submit support requests on-line. Customer will notify Corepoint Health promptly with any changes to such Designated Support Contacts.
    - (ii) Currently, the Corepoint Health customer support center is available to assist the Designated Support Contact during the hours between 9:00 a.m. and 5:00 p.m. Central Time on regular business days, excluding Corepoint Health holidays. Corepoint Health may, with thirty (30) days notice, change the hours during which customer support center is available but will not shorten the hours of support per day.
    - (iii) Corepoint Health will provide Customer with those Updates to the Software which Corepoint Health makes generally available to customers. Corepoint Health's preferred method of delivery for Updates is via a download from Corepoint Health's web site. However, Corepoint Health may select other methods for delivering Updates such as, but not limited to, via CD-ROM or magnetic media.
    - (iv) Customer will maintain at its expense both an Internet e-mail address, and a method and means to download Updates from Corepoint Health's web site. Corepoint Health will use Customer's e-mail address for notification of Updates and for correspondence regarding requests for support.
  - b. Software Problem Reporting. Customer agrees to test and verify, on an isolated development environment, any suspected Errors in the Software or Documentation and, through its Designated Support Contact(s), to submit reports concerning suspected Errors to [support@corepointhealth.com](mailto:support@corepointhealth.com). To more effectively diagnose problems, Customer's Designated Support Contact(s) agrees to confirm with the system administrator that all supporting systems (e.g., server hardware, etc.) are functioning properly before contacting Corepoint Health Customer Support, and to have the following information available prior to calling Corepoint Health: Corepoint Health Software product and version, available disk space, installed memory and hard disk space, client operating system, and server operating system (including service pack). In addition, Customer will provide a clear description of the problem or question, and any Error codes or messages. Customer's Designated Support Contact will provide Corepoint Health with data that Corepoint Health reasonably requests in order to reproduce operating conditions similar to those present when the potential Error was discovered. If Corepoint Health requests written verification of an Error or other malfunction discovered by Customer, Customer will promptly provide such verification, by email, telecopy, or overnight mail, setting forth in reasonable detail the respects in which the Software fails to perform. In addition, Customer will provide in a timely manner and with sufficient detail all example data, scripts, source code, or usage patterns that cause the Error to occur. Upon request, Customer will provide Corepoint Health with remote access to Customer's computer system for the purpose of remote diagnostics. Corepoint Health Customer Support may redefine Corepoint Health's Software problem reporting procedures as needed in which event Corepoint Health will post such updated procedures on its customer support web site.
  - c. Bug Fixes. Corepoint Health will investigate each suspected Error reported by a Designated Support Contact to determine whether, in Corepoint Health's judgment, the suspected Error is, in fact, an Error. Corepoint Health agrees, if feasible, to commence investigation of a suspected Error on the business day on which such Error is detected. If Corepoint Health confirms that there is an Error in the Software or in the Documentation, Corepoint Health will use reasonable efforts to provide an avoidance procedure, a workaround, or an Error correction. Corepoint Health will have discretion as to the method and manner of maintenance and support efforts, including the use of non-Corepoint Health personnel.
  - d. Software Updates. As permanent solutions are developed for known Errors in the Software, they will be incorporated from time to time in planned Updates. Corepoint Health will provide such Updates to the



Designated Support Contact as they are released. In the event Corepoint Health modifies the Documentation for the Software, Corepoint Health will also provide one copy of such Documentation to the Designated Support Contact at no additional charge as it becomes available.

2. **Conditions and Limitations of Services.** Corepoint Health's obligations to render Services are subject to the following conditions and limitations:
  - a. Problems Caused by Third Party Products, Errors in Use of Software, or Modifications to the Software. Corepoint Health has no obligation to provide Services with respect to problems in the use or functioning of the Software caused by any (i) hardware or software product (including but not limited to operating systems, networks, and third party software) not provided to Customer by Corepoint Health, (ii) error in the use of the Software inconsistent with the Documentation, or (iii) modification of the Software by any person or entity other than one authorized by Corepoint Health (including, without limitation, any modifications to Software which by their nature and functionality are modifiable by Customer). Customer may request that Corepoint Health provide Customer with services for any problem caused by any of the foregoing. If Corepoint Health agrees to do so, Corepoint Health will advise Customer regarding the rates applicable to such services which may include travel and per diem expenses should Customer request that Corepoint Health provide such services from a location other than Corepoint Health's principle place of business. If Customer does not agree to pay for same, Corepoint Health will not provide such services.
  - b. Maintenance of Current Releases of the Software. Customer should promptly install Updates to maintain the Software in the most current revision level. Corepoint Health provides Services only for (i) the most current major released version of the Software; and (ii) for a period of 12 months subsequent to the release date of the most current major version, the immediately preceding major release. Corepoint Health will have no obligation to support Customer where Customer is using a version of the Software that is not a then-supported release. Corepoint Health recommends that an isolated development environment be replicated outside of the production environment in order to test all new or changed processes and software upgrades prior to making modifications to the live production environment.
  - c. Access to Customer's Facilities. Customer may need to supply Corepoint Health with access to and use of all information and facilities reasonably necessary for Corepoint Health to render these services, subject to any security requirements or other company procedures of Customer. Resolving some product issues may require Corepoint Health to dial in to Customer's Corepoint Health's server or to otherwise remotely access the Software. If Corepoint Health is not permitted or is unable to do so, Customer may experience slower resolution times or higher costs, and Corepoint Health's ability to resolve a problem may be inhibited.
  - d. Backup Procedures. Customer is responsible for maintaining procedures external to the Software for reconstruction of lost or altered files, data, or programs to the extent it deems necessary, and for actually reconstructing any lost or altered files, data, or programs.
3. **License Grant to NeoIntegrate Engine Mode Software Product, Developer Edition – Nonproduction License.** Corepoint Health grants Customer the right to install one copy of the NeoIntegrate Engine Mode Software Product, Developer Edition for use within Customer's organization by up to the number of licenses for which Customer has paid license fees solely to design, develop, test, market, and support the use of the NeoIntegrate Engine Mode Runtime Software with the applications and interfaces with which such NeoIntegrate Engine Mode Runtime Software will be used to process data. The duration of the license grant is for a period of twelve months. Neither production use nor "Hot Standby" processing capabilities are allowed.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/23/2013

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

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

<b>PRODUCER</b> <b>Taggart &amp; Associates, Inc.</b> 1600 Canyon Boulevard P. O. Box 147 Boulder CO 80306	<b>CONTACT NAME:</b> Courtney Gabriel, PWCAM <b>PHONE (A/C, No. Ext):</b> (303) 442-1484 <b>FAX (A/C, No):</b> (303) 442-8822 <b>E-MAIL ADDRESS:</b> courtneyg@taggartinsurance.com																				
	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A:</td> <td>Hartford Accident &amp; Indemnity</td> <td>22357</td> </tr> <tr> <td>INSURER B:</td> <td>Beazley Insurance Company, Inc.</td> <td>37540</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Hartford Accident & Indemnity	22357	INSURER B:	Beazley Insurance Company, Inc.	37540	INSURER C:			INSURER D:			INSURER E:			INSURER F:	
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<b>INSURED</b> <b>Corepoint Health, LLC; NeoTool LLC</b> 3010 Gaylord Pkwy Ste 320 Frisco TX 75034																					

**COVERAGES** **CERTIFICATE NUMBER:** 13-14 Master **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	GENERAL LIABILITY			34SBAPI0759	6/13/2013	6/13/2014	EACH OCCURRENCE	\$ 2,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person)	\$ 10,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:							PERSONAL & ADV INJURY	\$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						GENERAL AGGREGATE	\$ 4,000,000	
								PRODUCTS - COMP/OP AGG	\$ 4,000,000
A	AUTOMOBILE LIABILITY			34SBAPI0759	6/13/2013	6/13/2014	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000	
	<input type="checkbox"/> ANY AUTO ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per person)	\$	
	<input checked="" type="checkbox"/> HIRED AUTOS	<input checked="" type="checkbox"/> NON-OWNED AUTOS					BODILY INJURY (Per accident)	\$	
							PROPERTY DAMAGE (Per accident)	\$	
	UMBRELLA LIAB						EACH OCCURRENCE	\$	
	EXCESS LIAB						AGGREGATE	\$	
	DED						RETENTION \$	\$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS	OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH)	<input type="checkbox"/> Y/N	N/A				E.L. EACH ACCIDENT	\$	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$	
B	Professional Liability			V11B9A130301	6/17/2013	6/17/2014	Limit	\$3,000,000	
							Deductible	\$50,000	

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

**CERTIFICATE HOLDER**

Natividad Medical Center  
 Contracts Manager  
 1441 Constitution Blvd.  
 Salinas, CA 93906

**CANCELLATION**

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

C Gabriel, PWCAM/CJG *Courtney J. Gabriel*

Cone Point

**BUSINESS LIABILITY COVERAGE FORM**

**QUICK REFERENCE  
BUSINESS LIABILITY COVERAGE FORM  
READ YOUR POLICY CAREFULLY**

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# BUSINESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C.** - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.** - Liability And Medical Expenses Definitions.

## A. COVERAGES

### 1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

#### Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

- b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

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

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

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

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

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

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

## BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

### e. Incidental Medical Malpractice

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
  - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
  - (b) You are not engaged in the business or occupation of providing such services.
- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. MEDICAL EXPENSES

### Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;provided that:
  - (1) The accident takes place in the "coverage territory" and during the policy period;
  - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
  - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

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

- (1) All expenses we incur.
- (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
- (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- (5) All costs taxed against the insured in the "suit".
- (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

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

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:
  - (a) Agrees in writing to:
    - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
    - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (b) Provides us with written authorization to:
    - (i) Obtain records and other information related to the "suit"; and
    - (ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

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

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

## **B. EXCLUSIONS**

### **1. Applicable To Business Liability Coverage**

This insurance does not apply to:

#### **a. Expected Or Intended Injury**

- (1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

#### **b. Contractual Liability**

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

## BUSINESS LIABILITY COVERAGE FORM

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

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

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

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

### d. Workers' Compensation And Similar Laws

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

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) above.

This exclusion applies:

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

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

### f. Pollution

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or



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

released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
  - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
  - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
  - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

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

## BUSINESS LIABILITY COVERAGE FORM

### g. Aircraft, Auto Or Watercraft

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

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

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

### h. Mobile Equipment

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

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

### i. War

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

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

### j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

- (8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;
- (9) Any:
  - (a) Body piercing (not including ear piercing);
  - (b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and
  - (c) Similar services;
- (10) Services in the practice of pharmacy; and
- (11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

**k. Damage To Property**

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

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

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

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

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

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

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

**l. Damage To Your Product**

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

**m. Damage To Your Work**

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

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

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

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

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

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

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### **o. Recall Of Products, Work Or Impaired Property**

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

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

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

### **p. Personal And Advertising Injury**

"Personal and advertising injury":

- (1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

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

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

(c) Title of any literary or artistic work;

- (8) Arising out of an offense committed by an insured whose business is:
  - (a) Advertising, broadcasting, publishing or telecasting;
  - (b) Designing or determining content of web sites for others; or
  - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

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

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

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

- (12) Arising out of:
  - (a) An "advertisement" for others on your web site;
  - (b) Placing a link to a web site of others on your web site;
  - (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
  - (d) Computer code, software or programming used to enable:
    - (i) Your web site; or
    - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

**q. Electronic Data**

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

**r. Employment-Related Practices**

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

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

**s. Asbestos**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

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

**t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information**

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

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

Exclusions c. through h. and k. through o. do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section D. - Liability And Medical Expenses Limits Of Insurance.

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### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

#### a. Any Insured

To any insured, except "volunteer workers".

#### b. Hired Person

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

#### c. Injury On Normally Occupied Premises

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

#### d. Workers' Compensation And Similar Laws

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

#### e. Athletics Activities

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

#### f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

#### g. Business Liability Exclusions

Excluded under Business Liability Coverage.

## C. WHO IS AN INSURED

### 1. If you are designated in the Declarations as:

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

- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

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

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

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

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

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

#### (2) "Property damage" to property:

- (a) Owned, occupied or used by,

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

**b. Real Estate Manager**

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

**c. Temporary Custodians Of Your Property**

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

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

**d. Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

**e. Unnamed Subsidiary**

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

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

**3. Newly Acquired Or Formed Organization**

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

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**4. Operator Of Mobile Equipment**

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

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

**5. Operator of Nonowned Watercraft**

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

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

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

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

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

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contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

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

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

### a. Vendors

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

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

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.



- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**c. Lessors Of Land Or Premises**

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
  - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In connection with your premises; or
  - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:  
 This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
  - (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Supervisory, inspection, architectural or engineering activities.

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

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In the performance of your ongoing operations;
  - (b) In connection with your premises owned by or rented to you; or
  - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
    - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
    - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:  
 "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

## BUSINESS LIABILITY COVERAGE FORM

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

The limits of insurance that apply to additional insureds are described in Section **D. – Limits Of Insurance**.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E. – Liability And Medical Expenses General Conditions**.

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

### **D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**

#### **1. The Most We Will Pay**

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

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

#### **2. Aggregate Limits**

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

#### **3. Each Occurrence Limit**

Subject to **2.a.** or **2.b.** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

#### **4. Personal And Advertising Injury Limit**

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

#### **5. Damage To Premises Rented To You Limit**

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

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

#### **6. How Limits Apply To Additional Insureds**

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

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

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

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

## **E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS**

### **1. Bankruptcy**

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

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

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

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

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

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

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

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

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

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

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

#### **d. Obligations At The Insured's Own Cost**

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

#### **e. Additional Insured's Other Insurance**

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

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

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

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

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

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This Paragraph **f.** applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

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

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

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 5. Separation Of Insureds

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

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

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

### b. Unintentional Failure To Disclose Hazards

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

### 7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

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

#### b. Excess Insurance

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

##### (1) Your Work

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

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

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

##### (3) Tenant Liability

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

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

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **A.** – Coverages.

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

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

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

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

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

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

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

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

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

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

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

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

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

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

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

**c. Method Of Sharing**

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

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

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

**a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

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

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

**F. OPTIONAL ADDITIONAL INSURED COVERAGES**

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

**1. Additional Insured - Designated Person Or Organization**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

**2. Additional Insured - Managers Or Lessors Of Premises**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

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

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**3. Additional Insured - Grantor Of Franchise**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

**4. Additional Insured - Lessor Of Leased Equipment**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

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

This insurance does not apply to:

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

**6. Additional Insured - State Or Political Subdivision - Permits**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- b.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

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

**7. Additional Insured – Vendors**

- a.** WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- b.** The insurance afforded to the vendor is subject to the following additional exclusions:

- (1) This insurance does not apply to:
  - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - (b) Any express warranty unauthorized by you;
  - (c) Any physical or chemical change in the product made intentionally by the vendor;
  - (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or

- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

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

**8. Additional Insured – Controlling Interest**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a.** Their financial control of you; or
- b.** Premises they own, maintain or control while you lease or occupy these premises.

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This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

### 9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for the additional insured(s); or

(2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

### 10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

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

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

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

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

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

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

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

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

5. "Bodily injury" means physical:

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

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

6. "Coverage territory" means:



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

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

- 7. "Electronic data" means information, facts or programs:
  - a. Stored as or on;
  - b. Created or used on; or
  - c. Transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

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

**12. "Insured contract" means:**

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section D. – Liability and Medical Expenses Limits of Insurance.
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

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

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- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
14. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - b. While it is in or on an aircraft, watercraft or "auto"; or
  - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - b. Vehicles maintained for use solely on or next to premises you own or rent;
  - c. Vehicles that travel on crawler treads;
  - d. Vehicles, whether self-propelled or not, on which are permanently mounted:
- (1) Power cranes, shovels, loaders, diggers or drills; or
  - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo.
- However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
- (1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing; or
    - (c) Street cleaning;
  - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral, written or electronic publication of material that violates a person's right of privacy;
  - f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
  - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
  - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
18. "Pollutants" 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.
19. "Products-completed operations hazard";
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
    - (1) Products that are still in your physical possession; or
    - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.
- b. Does not include "bodily injury" or "property damage" arising out of:
    - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
    - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.
20. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.
- As used in this definition, "electronic data" is not tangible property.
21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
23. "Volunteer worker" means a person who:
- a. Is not your "employee";

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

**24. "Your product":**

**a. Means:**

**(1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a)** You;
- (b)** Others trading under your name; or
- (c)** A person or organization whose business or assets you have acquired; and

**(2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

**b. Includes:**

**(1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

**(2)** The providing of or failure to provide warnings or instructions.

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

**25. "Your work":**

**a. Means:**

**(1)** Work or operations performed by you or on your behalf; and

**(2)** Materials, parts or equipment furnished in connection with such work or operations.

**b. Includes:**

**(1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

**(2)** The providing of or failure to provide warnings or instructions.